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Insurance Commissioner as Liquidator recovers \$23 million for the Kentucky Central Life Estate

FRANKFORT, Ky. - Insurance Commissioner Janie A. Miller today announced that Deloitte & Touche has agreed to pay \$23 million to settle claims asserted by her in her capacity as Liquidator for Kentucky Central Life Insurance Company (KCL).

The agreement was filed for approval by Judge William L. Graham in the Franklin Circuit Court, concluding a claim filed on January 27, 1994, by the Department of Insurance on behalf of collapsed Lexington insurer Kentucky Central. On that date, Deloitte & Touche was added as a defendant in a lawsuit filed on January 7, 1994, against five former officers and directors of Kentucky Central and the law firm that served as general counsel to Kentucky Central.

The action was brought against Deloitte & Touche for professional negligence in auditing Kentucky Central's financial statements. Deloitte & Touche provided accounting services to Kentucky Central for 23 years.

Miller, as Kentucky Central's liquidator, said, "The settlement was fair and reasonable for all of the parties, resolves a 9-year dispute, and accrues to the estate of KCL to benefit Kentucky Central policyholders, creditors and stockholders. We have now recovered \$227 million through these years of liquidation, with today's \$23 million added to the previous \$204 million."

In June 2001 the Kentucky Court of Appeals reversed the decision of the Franklin Circuit Court granting Deloitte's motion for summary judgment on the statute of limitations. The Court of Appeals ruled, "Kentucky Central's cause of action against Deloitte & Touche for professional negligence did not accrue until February 12, 1993, the date Kentucky Central was placed into rehabilitation. As a result, the Liquidator's claims against Deloitte & Touche filed on January 27, 1994 were timely." The Kentucky Supreme Court granted discretionary review on November 13, 2002.

After the Court of Appeals ruling, both parties entered into mediation, leading to the settlement. In the settlement, both parties agreed to dismiss all claims that were asserted or could have been asserted in the Civil Action.

Kentucky Central entered rehabilitation due to financial problems when the Department of Insurance took over daily operations of the Lexington company on February 12, 1993. On August 18, 1994, Franklin Circuit Judge William L. Graham declared Kentucky Central was insolvent.

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Note: The formal case cite is *Janie A. Miller, Liquidator of Kentucky Central Life Insurance Company v. Edwin F. Schaeffer, Jr., et al.*, Franklin Circuit Court, Civil Action No. 93-CI-00196-AP-002.